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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,403	01/22/2004	Takeshi Miyao	N9450.0055/P055-B	3313

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EXAMINER

CHAVIS, JOHN Q

ART UNIT	PAPER NUMBER
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2193

MAIL DATE	DELIVERY MODE
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04/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/761,403	Applicant(s) MIYAO ET AL.	
	Examiner John Chavis	Art Unit 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/22/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-13, and 16-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The features of “having the plurality of operating systems being booted up at the same time or generated at the same time” is not taught or suggested in the original specifications. The applicant should further note that features that are not supported by the specifications are not entitled patentable weight.

DETAILED ACTION

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Loucks (5,764,984).

Claims

1. An operating system management

Loucks

See the title and abstract. Loucks

method for managing a plurality of operating systems, comprising the steps of:

enabling each of a plurality of operating systems to record its operation information item corresponded to operation information items of those other operating systems, regarded to have been generated approximately at the same time;

replacing alternately and operating in a time sharing manner said plurality of operating systems, said plurality of operating systems being booted up at the same time;

operating said plurality of operating systems as software of a common computing unit;

finding the correspondence of an operation information item to be assumed as a reference of said approximately same times from operation information items recorded by said operating systems; and

finding a sequence of operation information items recorded by said other operating systems according to

provides for coordinating resources (managing) for a plurality of operating systems, see col. 2 lines 47-51.

See col. 2 lines 28-51. Loucks provides for concurrent and transparent support by linking basic services (that inherently had been recorded to enable concurrency without performance penalties, col. 2 lines 15-17.

See col. 2 lines 66-67 and col. 5 lines 37-45. See also col. 3 lines 1-3, which inherently indicates that time is shared. It is not clear that anything in the specifications teach booting at the same time. In fact, it is not clear that booting is even mentioned in the applicant's system; except in the newly modified claims. Furthermore, it appears that Loucks may provide for the features also in that he gives control to the dominant system (which makes it appear that the others exist or are loaded also or there would be no need to give control to one over another that does not exist), see col. 3 lines 58-62.

See col. 1 lines 56-67. See also col. 3 lines 27-29, which indicates that control is based on a single (common) unit.

See col. 4 lines 7-27.

See fig. 3. and col. 3 line 65-col. 4 line 6.

said found correspondence.

As per claims 2-3, see the rejection of claim 1 above.

Claim 13 is also rejected as claim 1 above.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-12, 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loucks as applied to claim 1 above, and further in view of the NPL references to Strohmer in view of Watanabe (JP 06-332568). Loucks is not considered to teach the feature of finding a sequence...using size of a counter value added to operation information items...as specified in claim 14. However, the feature is taught by Strohmer (JP 05-307424) to enable synchronization control in systems functioning with different time basis, see the title and the abstract. While it may be construed that Strohmer does not teach the actual counter feature, the feature is considered taught by Watanabe in recording the differences in network system times to enable synchronization between computers with incompatible time flow. Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention to modify Loucks system with the teachings of Strohmer in view of Watanabe in order to provide for synchronization between systems with incompatible system times to provide for

timesharing between operating systems executing on the same kernel and utilizing the same resources.

Claims 15-17 are rejected for the same reasons as claim 14.

In reference to claim 4, the counter information and difference information provided above in view of claim 14 is considered to provide for the trace information, since it represents the difference in timing sequences at various times during execution.

Although Loucks/Strohmer/Watanabe does not indicate where software components are located, the location of the control program (claims 5 and 11) is not considered to provide a different functionality than the features provided for in claim 4. The location of a software component is considered merely a choice of design; since, the overall functionality is still the same. Therefore, moving software components around in the system is not considered to provide a new system and claim 5 is rejected as claim 4. Loucks is considered to provide such a feature in view of his routing in col. 5 lines 18-32.

The calculating and recording of the difference values, indicated above, is considered to provide for the trace editing (switching, synchronization and inter-operating) features of claims 6-10 and 12.

7. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Chavis whose telephone number is (571) 272-3720. The examiner can normally be reached on M-F, 9:00am-5:30pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis Bullock can be reached on (571) 272-3759. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JC/
3/21/08

/John Chavis/

Primary Examiner, Art Unit 2193